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CARR & FERRELL LLP 2200 GENG ROAD PALO ALTO, CA 94303			EXAMINER NGUYEN BA, HOANG VU A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/717,183	Applicant(s) CARHART ET AL.	
	Examiner Hoang-Vu A. Nguyen-Ba	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-9, 11-21 and 46-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9, 11-21 and 46-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed April 15, 2008.
2. Claims 1-5, 7-9, 11-21 and 46-50 are pending. Claims 1, 14 and 20 are independent claims.

Response to Amendment

3. Per Applicants' request, Claims 6 and 22-45 have been canceled; Claim 10 has been withdrawn; Claims 1-5, 7-9, 11-21 have been amended; and new claims 46-50 have been added.
4. The objection to the specification is withdrawn in view of applicant's amendment to the specification to correct the identified informalities.

Response to Arguments

5. Applicants' arguments have been fully considered but are moot in view of the new grounds of rejection.

Claim Rejections – 35 USC § 103

6. The following is a quotation of the 35 U.S.C. § 103(a) which form the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 7-9, 11-12, 14, 16-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,421,717 to Kloba et al. ("Kloba") in view of U.S. Patent No. 6,701,528 to Arsenault et al. ("Arsenault").

Claim 1

Kloba discloses at least *a method for providing a personal media service, the method comprising:*

presenting a user with a selection of pre-defined channels (see at least FIG. 1C, step 1608; FIG. 5A, steps 508, 512, 514, 518, 520, 522; FIG. 5B, step 524; FIG. 5C, steps 540, 542, 544, 585, 587).

Kloba does not specifically disclose:

storing media content of at least two pre-defined channels provided by a remote publisher in a local cache prior to selection by the user.

However, in an analogous art, Arsenault discloses that segments of a video program are stored in a local storage device prior to a user's request for viewing the selected video program (see at least 3:15-18; 3:44-46).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use Arsenault's technique of pre-storing segments of a selected video program in a local storage before a user's request for viewing in Kloba because the use of this feature would allow virtual real-time viewing of the selected media content.

The combination of Kloba-Arsenault further discloses:

receiving input from the user specifying a custom channel as a combination of at least two pre-defined channels of said selection (see at least FIG. 1C, step 160G; FIG. 5C, step 540, 542, 544; FIGs. 46-47; FIG. 5A, steps 512, 514, 516, 518; FIG. 5B, steps 585; FIG. 5L, 5M); and

making the custom channel and both of the at least two-predefined channels provided by the remote publisher immediately available for playback from the local cache (see at least Abstract; note that operating off-line means that the content is stored on the handheld device, is thus immediately available to the user when needed without connecting to any server; FIG. 1C, "User surfs Web off-line by reading cached pages").

Claim 2

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault further discloses *playing back interleaved media content of the at least two pre-defined channels that have been combined into the custom channel* (Kloba; see at least FIG. 1M, “Music,” Movies,” etc.; 17:1-3).

Claim 3

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault further discloses *wherein providing the user with a selection of pre-defined channels includes displaying a list of the pre-defined channels* (Kloba; see at least FIG. 1C, step 160D).

Claim 4

The rejections of base claim 1 and intervening claim 3 are incorporated. The combination of Kloba-Arsenault further discloses *wherein the received input includes icons dragged from the list representing the first and second pre-defined channels to a screen area used to configure the custom channel* (Kloba; see at least FIG. 44, e.g., “drag the AvantGo AutoChannel).

Claim 5

The rejections of base claim 1 and intervening claims 3-4 are incorporated. The combination of Kloba-Arsenault further discloses *wherein content from the first and second pre-defined channels are given substantially equal time during playback* (Kobla; see at least 18:18 – 19:14).

Claim 7

The rejection of base claim is incorporated. The combination of Kloba-Arsenault further discloses *wherein at least one of the pre-defined channels includes user owned content* (Kloba; see at least FIG. 14, e.g., “Personal Channels”).

Claim 8

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault further discloses *wherein at least one of the pre-defined channels includes content broadcasted via the Internet* (Kloba; see at least FIG. 1AB).

Claim 9

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault further discloses *wherein at least one of the pre-defined channels includes content broadcast via airwaves* (Kloba; see at least FIG. 30).

Claim 11

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault further discloses *sending information specifying content of the custom channel via a network* (Kloba; see at least FIG. 30).

Claim 12

The rejection of base claim 1 is incorporated. The combination of Kloba-Arsenault further discloses *transmitting media content of the local cache to a remote location via a network upon receipt of authentication information from the remote location* (Kloba; see at least FIG. 1S, steps 192G-I; FIGs.28-29).

Claim 14

Kloba discloses at least *a method for providing a personal media service, said method comprising:*

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presenting a user with a group of pre-defined channels (see at least FIG. 1C, step 1608; FIG. 5A, steps 508, 512, 514, 518, 520, 522; FIG. 5B, step 524; FIG. 5C, steps 540, 542, 544, 585, 587).

Kloba does not specifically disclose:

wherein content corresponding to the group of pre-defined channels is stored in a local cache prior to selection by a user.

However, in an analogous art, Arsenault discloses that segments of a video program are stored in a local storage device prior to a user's request for viewing the selected video program (see at least 3:15-18; 3:44-46).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use Arsenault's technique of pre-storing segments of a selected video program in a local storage before a user's request for viewing in Kloba because the use of this feature would allow virtual real-time viewing of the selected media content.

The combination Kloba-Arsenault further discloses:

accepting a user selection of at least two of the pre-defined channels (Kobla; see at least FIG. 1C, step 160G; FIG. 5C, step 540, 542, 544; FIGs. 46-47; FIG. 5A, steps 512, 514, 516, 518; FIG. 5B, steps 585; FIG. 5L, 5M);

interleaving supplemental media content with media content of the at least two selected pre-defined channels (Kobla; see at least FIG. 1C, step 160G; FIG. 5C, step 540, 542, 544; FIGs. 46-47; FIG. 5A, steps 512, 514, 516, 518; FIG. 5B, steps 585; FIG. 5L, 5M);

caching the selected supplemental media content along with the two pre-defined channels to make the cache media content available for immediate playback (Kobla; see at least FIG. 1C, step 160E; FIG. 5A, steps FIG. 585, 587),

wherein playback of media content of a first one of the selected pre-defined channels is interspersed with the supplemental media content (Kobla; see at least Abstract; note that operating off-line means that the content is stored on the handheld device, is thus immediately available to the user when needed without connecting to any server; FIG. 1C, "User surfs Web off-line by reading cached pages").

Claim 16

The rejection of base claim 14 is incorporated. The combination Kobla-Arsenault further discloses

receiving information about user preferences from the user (Kobla; see at least 5A, step 518; e.g., the user preferences being the selected category; FIG. 5B, e.g., step 585); and

selecting the supplemental media content based on said user preferences (Kobla; see at least 5A, step 520; FIG. 5B, step 587).

Claim 17

The rejection of base claim 14 is incorporated. The combination Kobla-Arsenault further discloses *playing the second selected channel interspersed with the supplemental media content after playing the first selected channel interspersed with the supplemental media content while continuing to advance through the supplemental media content (Kobla; see at least FIG. 1M, "Music," Movies," etc.; 17:1-3).*

Claim 18

The rejection of base claim 14 is incorporated. The combination Kobla-Arsenault further discloses *wherein selecting the supplemental media content includes a selection based on a current location of a portable device (Kobla; see at least FIG. 31, "Location:").*

Claim 19

The rejections of base claim 14 and intervening claim 18 are incorporated. The combination Kobla-Arsenault does not specifically disclose *wherein the location of the portable device is determined using the Global Positioning System(GPS).*

However, this feature is deemed inherent to Kloba since Kloba enables web content to be loaded on mobile devices (1:61-67) similar to an Internet enabled mobile telephone with a GPS receiver disclosed in WO-2001-063317, wherein the GPS receiver may be arranged to power up in response to the user selecting a particular web site, for example, a website associated with a location based service whereby the call location is determined in anticipation of a request from

that website. Without the GPS, the mobile phone could not be located so that the web content could be downloaded to the mobile phone.

Claim 20

Kloba discloses at least *a method of providing a personal download media service, the method comprising:*

receiving a series of preferences from a user (see at least FIG. 5A, steps 514, 518);

applying rules to the preferences to identify a list of pre-defined channels available to the user (see at least FIG. 5A, steps 520, 516);

displaying the list of pre-defined channels to the user (see at least FIG. 1C, step 1608; FIG. 5A, steps 508, 512, 514, 518, 520, 522; FIG. 5B, step 524; FIG. 5C, steps 540, 542, 544, 585, 587).

Kloba does not specifically disclose:

locally caching at least two of the pre-defined channels prior to selection by the user so that either of the cached pre-defined channels is available for immediate playback.

However, in an analogous art, Arsenault discloses that segments of a video program are stored in a local storage device prior to a user's request for viewing the selected video program (see at least 3:15-18; 3:44-46).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use Arsenault's technique of pre-storing segments of a selected video program in a local storage before a user's request for viewing in Kloba because the use of this feature would allow virtual real-time viewing of the selected media content.

8. Claims 13, 15 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,421,717 to Kloba et al. ("Kloba") in view of U.S. Patent No. 6,701,528 to Arsenault et al. ("Arsenault").

Claim 13

The combination Kobla-Arsenault does not specifically disclose:

developing information specifying a media content type to be recorded based on user input,
monitoring content of one of the pre-defined channels;
analyzing the content to capture a content identification signature; and
recording the content for later playback only if the content identification signature indicates correspondence to the media content type.

However, official notice is taken that these features are well known in the art and built-in to most of the media players existing at the time of the invention. One of the media players is Microsoft® Windows Media Player® (WMP), which features means for developing information specifying a media content type to be downloaded and saved/burned on CDs/DVDs of user's PC (see WMP help menu, Introducing WMP/Organizing your files/Adding items to your library), means for monitoring (see WMP help menu, Introducing WMP/Organizing your files/Adding items to your library/To add items to your library/Automatically add digital media files from folders that you want the Player to monitor), means for analyzing content to capture content identification which are inherent to WMP to ensure compliance with Digital Rights Management (DRM) and means for recording and preserving content (e.g., burning a CD/DVD) for the purpose of facilitating the purchase and download of media content from the Internet to user's PC.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate these well-known features in the combination Kloba-Arsenault for the purpose of facilitating the purchase and download of media content from the Internet to mobile devices.

Claim 15

The rejection of base claim 14 is incorporated. The combination Kobla-Arsenault does not specifically disclose *wherein playing back media content includes:*

maintaining a pointer within the supplemental media content; and

playing a portion of the supplemental media content at selected points within the media content of the first selected pre-defined channel, wherein the selected points are determined by the pointer.

However, official notice is taken that these features are included in WMP (see at least WMP help menu, Using the Player/Using general playback controls/Playing files) for the purpose of facilitating the playback of media contents via the WMP interface.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the WMP features in the combination Kloba-Arsenault for the purpose of facilitating the playback of media contents in the combination.

Claim 21

The rejection of base claim 20 is incorporated. The combination Kloba-Arsenault does not specifically disclose

*playing back media content of at least one of the pre-defined channels;
receiving a command from the user to skip a portion of the media content;
skipping the portion of the media content and then
transmitting information indicating skipped portion of the media content to a remote monitoring site.*

However, official notice is taken that these features are included in WMP (see at least WMP help menu, Using the Player/Using general playback controls/Playing files) for the purpose of facilitating the playback of media contents via the WMP interface.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the WMP features in the combination Kloba-Arsenault for the purpose of facilitating the playback of media contents in the combination.

Claim 46

The rejections of base claim 1 and intervening claim 3 are incorporated. The combination Kloba-Arsenault *wherein the received user input includes a mouse click indicating selection from the list representing the first and second pre-defined channels.*

However, official notice is taken that the use of a mouse to select an item of a list displayed on a monitor screen is well known in the art for the purpose of facilitating the user interactivity with a program.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a mouse as an user interface device in the combination Kloba-Arsenault for the purpose discussed above.

Claim 47

The rejection of base claim 14 is incorporated. The combination Kloba-Arsenault does not specifically disclose *wherein playing back media content includes:*

maintaining a pointer within the media content; and
playing a portion of the supplemental media content at selected points within the media content of the first selected pre-defined channel, wherein the selected points are determined by the pointer.

However, official notice is taken that these features are included in WMP (see at least WMP help menu, Using the Player/Using general playback controls/Playing files) for the purpose of facilitating the playback of media contents via the WMP interface.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the WMP features in the combination Kloba-Arsenault for the purpose of facilitating the playback of media contents in the combination.

Claim 48

The rejection of base claim 14 is incorporated. The combination Kloba-Arsenault does not specifically disclose *wherein playing back media content includes:*

maintaining a pointer within the meta-tag associated with the media content; and
playing a portion of the supplemental media content at selected points within the media content of the first selected pre-defined channel, wherein the selected points are determined by the pointer.

However, official notice is taken that these features are included in WMP (see at least WMP help menu, Using the Player/Using general playback controls/Playing files) for the purpose of facilitating the playback of media contents via the WMP interface.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the WMP features in the combination Kloba-Arsenault for the purpose of facilitating the playback of media contents in the combination.

Claim 49

The rejection of base claim 14 is incorporated. The combination Kloba-Arsenault further discloses *wherein the supplemental media content includes an advertisement* (Kloba; see at least FIG. 10, e.g., Yahoo! Classified –Listings).

Claim 50

The rejection of base claim 14 is incorporated. The combination Kloba-Arsenault does not specifically disclose:

*playing back media content of at least one of the pre-defined channels;
measuring play back of supplemental media; and
transmitting information indicating play duration of supplemental media to a
remote monitoring site.*

However, official notice is taken that these features are included in WMP (see at least WMP help menu, Using the Player/Using general playback controls/Playing files) for the purpose of facilitating the playback of media contents via the WMP interface.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the WMP features in the combination Kloba-Arsenault for the purpose of facilitating the playback of media contents in the combination.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu “Antony” Nguyen-Ba whose telephone number is (571) 272-3701. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner are unsuccessful, the examiner’s supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2600 Group receptionist (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Hoang-Vu Antony Nguyen-Ba/

Primary Examiner, Art Unit 2623

July 18, 2008